

The Hon. Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

NO. CR09-00209-RAJ

Plaintiff,

V.

## FRANK FRANCIS COLACURCIO JR.,

**Defendant.**

## **PRELIMINARY ORDER OF FORFEITURE OF SUBSTITUTE ASSETS**

THIS MATTER comes before the Court on the United States' Motion for  
Plenary Order of Forfeiture of Substitute Assets (the "Motion") seeking to forfeit to  
the United States, pursuant to 21 U.S.C. § 853(p) and Fed. R. Crim. P. 32.2(e)(1)(B) and  
(e)(2), \$19,608 in U.S. funds (the "Funds"), which are Defendant Frank Francis  
Murgio Jr.'s share of proceeds resulting from the City of Poulsbo's acquisition of real  
property and a temporary easement in Kitsap County, Washington, in order to partially  
satisfy Defendant's outstanding forfeiture money judgment.

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS that entry of a Preliminary Order of Forfeiture of Substitute Assets is appropriate because:

- 1     • On June 23, 2009, Defendant was charged in an Indictment with  
 2         *Conspiracy to Commit RICO – Racketeer Influenced and Corrupt*  
 3         *Organizations*), in violation of 18 U.S.C. § 1962(d) (Count 1); *Conspiracy*  
 4         *to Engage in Money Laundering*, in violation of 18 U.S.C. § 1956(h)  
 5         (Count 2); and *Mail Fraud*, in violation of 18 U.S.C. § 1341 (Counts 3-  
 6         15). *See* Dkt. No. 1. The Indictment contained appropriate forfeiture  
 7         allegations, including a provision for the forfeiture of substitute assets. *Id.*
- 8     • On June 25, 2010, Defendant pleaded guilty to *Conspiracy to Commit*  
 9         *RICO – Racketeer Influenced and Corrupt Organizations*), in violation of  
 10         18 U.S.C. § 1962(d) (Count 1). *See* Dkt. No. 265. In his Plea Agreement,  
 11         Defendant agreed to forfeit his right, title, and interest in the various assets  
 12         listed therein, all of which he agreed were forfeitable pursuant to 18 U.S.C.  
 13         §§ 1963(a)(1), (a)(2), and (a)(3). *Id.*, ¶ 8. The property that Defendant  
 14         agreed to forfeit included assets which Defendant acquired and maintained  
 15         in violation of 18 U.S.C. § 1962; which afforded a source of influence over  
 16         the racketeering enterprise named and described in Count 1 of the  
 17         Indictment, which Defendant established, operated, controlled, conducted  
 18         and participated in the conduct of, in violation of 18 U.S.C. § 1962(d); and  
 19         which are property constituting and derived from proceeds obtained,  
 20         directly and indirectly, from racketeering activity in violation of 18 U.S.C.  
 21         § 1962. *Id.* Among the assets that Defendant agreed to forfeit was a money  
 22         judgment in the amount of \$1,300,000, which the parties agreed would be  
 23         due and payable 12 months after the Final Order of Forfeiture was entered.  
 24         *Id.*, ¶ 8(j).
- 25     • On September 24, 2010, this Court entered a Preliminary Order of  
 26         Forfeiture forfeiting Defendant's interest in, *inter alia*, a money judgment  
 27         in the amount of \$1,300,000. *See* Dkt. No. 310. That same date, the Court

sentenced Defendant and incorporated the Preliminary Order of Forfeiture in the Judgment. *See* Dkt. No. 309.

- On January 3, 2013, this Court entered a Final Order of Forfeiture with respect to the money judgment in the amount of \$1,300.000, which became due and payable 12 months thereafter. *See* Dkt. No. 354. The forfeiture money judgment became due and payable on January 3, 2014.
- On September 25, 2015, the United States recorded the Final Order of Forfeiture in Kitsap County, Washington, with respect to two parcels of land in which Defendant had an ownership interest, including parcel number 132601-4-008-2004. *See* Declaration of Deputy U.S. Marshal Rony Gilot in Support of Motion for Preliminary Order of Forfeiture of Substitute Assets (“Gilot Decl.”), ¶ 7 & Exhibit A (Final Order of Forfeiture recorded with respect to parcel number 132601-4-008-2004).
- On May 21, 2024, the United States Marshals Service received a cashier’s check in the amount of \$19,608 (the Funds) from Pacific Northwest Title of Kitsap County (the “Title Company”). *See* Gilot Decl., ¶ 12. The Funds represent Defendant’s 50% share of the proceeds from a real estate transaction involving parcel number 132601-4-008-2004, in which Defendant had a 50% ownership interest. *See* Gilot Decl., ¶¶ 11-12 & Exhibit C.
- Defendant has made no payments on his forfeiture money judgment, which is outstanding in its entirety, that is, \$1,300,000. *See* Gilot Decl., ¶ 8.
- Even with the exercise of due diligence, the United States was unable to locate and recover all of Defendant’s forfeitable property in this matter. *See* Gilot Decl. ¶ 13.
- The United States has satisfied the requirements of 21 U.S.C. § 853(p)(1)(A).

1       • The United States has established by a preponderance of the evidence that  
2           the above-identified \$19,608 in U.S. funds (the Funds) is Defendant's  
3           property, may be forfeited as substitute property, and may be applied  
4           against the forfeiture money judgment, the outstanding balance of which is  
5           \$1,300,000.

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7           NOW, THEREFORE, THE COURT ORDERS:

8       1. Defendant's right, title, and interest in the above-identified \$19,608 in U.S.  
9     funds is hereby forfeited as substitute assets and shall be applied toward his outstanding  
10    forfeiture money judgment;

11      2. The United States Department of Justice, and/or its authorized agents or  
12     representatives, shall maintain the above-identified \$19,608 in U.S. funds in its custody  
13     and control until further order of this Court;

14      3. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and (e) and 21 U.S.C. § 853(n), the  
15     United States shall publish notice of this Preliminary Order and the United States' intent  
16     to dispose of the funds as permitted by governing law. The notice shall be posted on an  
17     official government website—[www.forfeiture.gov](http://www.forfeiture.gov)—for at least 30 days. For any person  
18     known to have alleged an interest in the above-identified funds, the United States shall  
19     also, to the extent possible, provide direct written notice to that person. The notice shall  
20     state that any person, other than the Defendant, who has or claims a legal interest in the  
21     funds must file a petition with the Court within 60 days of the first day of publication of  
22     the notice (which is 30 days from the last day of publication), or within 30 days of receipt  
23     of direct written notice, whichever is earlier. The notice shall advise all interested persons  
24     that the petition:

25           a. shall be for a hearing to adjudicate the validity of the petitioner's  
26           alleged interest in the funds;  
27           b. shall be signed by the petitioner under penalty of perjury; and,

1           c. shall set forth the nature and extent of the petitioner's right, title, or  
2           interest in the funds as well as any facts supporting the petitioner's  
3           claim and the specific relief sought;

4         4. If no third-party petition is filed within the allowable time period, the

5 United States shall have clear title to the funds, and this Preliminary Order shall become  
6 the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(b)(4) and (c)(2);

7         5. If a third-party petition is filed, upon a showing that discovery is necessary  
8 to resolve factual issues presented by that petition, discovery may be conducted in  
9 accordance with the Federal Rules of Civil Procedure before any hearing is conducted on  
10 the petition. Following adjudication of any third-party petitions, the Court will enter a  
11 Final Order of Forfeiture, pursuant to Fed. R. Crim. P. 32.2(c)(2) and (e)(2) and  
12 21 U.S.C. § 853(n) and (p), reflecting that adjudication; and

13         6. The Court will retain jurisdiction for the purpose of enforcing this  
14 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of  
15 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to  
16 Fed. R. Crim. P. 32.2(e).

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18           IT IS SO ORDERED.

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20           DATED this 13th day of June, 2024.

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22             
23           The Honorable Richard A. Jones  
24           United States District Judge